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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,819	03/15/2002	Albert Robinson Seeley	EMPIR-043AUS	2785

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EXAMINER

MATTHEW, AARON D

ART UNIT	PAPER NUMBER
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2114

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/099,819	Applicant(s) SEELEY ET AL.	
	Examiner Aaron D Matthew	Art Unit 2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,7-9,12,14-18,21,23-30,32-36 and 38-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,5,8,9,12,15-18,21,23-25 and 32-36 is/are allowed.
- 6) ☒ Claim(s) 26-30 is/are rejected.
- 7) ☒ Claim(s) 7,14, and 38-42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 5 and 14 are objected to because of the following informalities:

Claim 5, as amended, appears to be dependent on claim 41. Examiner notes the possibility that a strike through the "4" is simply not visible, however, suggests using the following format for clarity in the amendment to the claim, "The computer system of claim [[4]]1,".

Claim 14 has been amended to indicate dependence on claim 1, (see line 1).

Examiner notes that this indication was probably made in error, and recognizes that claim 14 should properly be indicated as dependent on claim 8.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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2. Claims 7, 14, and 38-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 7 and 14 recite the limitations, "a routing accuracy corresponding to connection between a virtual telephone caller and an agent, and a display accuracy associated with an agent computer screen display," (see lines 22-24 of the claims). As written in the claims, the above limitations are disclosed as corresponding to time latency values, (see lines 1-2 in the claims). However, the examiner asserts that it is apparent that a routing accuracy and a display accuracy do not correspond to time latency values, but, rather, test data available in the preferred embodiment of the invention, (see specification, page 14, lines 10-20). The examiner suggests rewording the claim so as to avoid confusion caused by this discrepancy. The examiner also recognizes that this change was made regarding claim 23, and suggests a similar change be made to claims 7 and 14.

Claim 38 recites the limitation "the contact center" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claims 39-42 are rejected due to their dependence on claim 38.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art, and further in view of Liese et al.

Regarding claim 26, applicant's admitted prior art teaches a computer system for testing a contact center, comprising:

- A first virtual test system, the first virtual test system to provide a first communication associated with a first media to the contact center, (see Fig. 1, elements 38 and 40); and
- A second virtual test system coupled to the first virtual test system, the second virtual test system to provide a second communication associated with a second media to the contact center, (see Fig. 1, elements 42 and 44).

Applicant's admitted prior art fails to teach that said computer system is adapted to relate a portion of the first communication provided by the first virtual test system to a portion of the second communication provided by the second virtual test system. Applicant's admitted prior art also fails to teach a first test client computer coupled to the first virtual test system, a second test client computer coupled to the second virtual test system, and a multimedia synchronization server coupled to the first and second test client computers to synchronize the portion of the first communication provided by the first virtual test system with the portion of the second communication provided by the second virtual test system.

Liese teaches a system for heterogeneous telecommunications network testing by a plurality of users, wherein said system is adapted to relate a portion of a first communication provided by a first virtual test system, coupled to a first test client computer, to a portion of a second communication provided by a second virtual test system, (see col. 4, lines 1-18), coupled to a second test client computer. Liese further teaches that said communications may be associated with alternative media, (see col. 3, lines 17-20), and teaches a multimedia synchronization server coupled to the first and second test client computers to synchronize the portion of the first communication provided by the first virtual test system with the portion of the second communication provided by the second virtual test system, (see col. 4, lines 13-16; and note col. 7, lines 38-43 and col. 3, lines 9-29).

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At the time of applicant's invention, one of ordinary skill in the art would have considered it obvious to combine the teachings in order to achieve a system for testing a telecommunications network, as taught in applicant's admitted prior art, wherein portions of communications provided by differing virtual test systems are related.

One of ordinary skill in the art would have been motivated to combine the teachings because Liese shows that there is a need in the art to manage a multiplicity of tests to be performed in a telecommunications network that supports independent testing by a plurality of client computers and virtual test systems, (see col. 2, lines 30-35, and 8-13). One of ordinary skill in the art would have been clearly motivated to relate portions of communications provided by differing virtual test systems, as taught in Liese, in the system of applicant's admitted prior art, in order to prevent interference between said communications in the event that testing resources are limited.

Regarding claim 27, note Fig. 1, elements 28 and 40 of applicant's admitted prior art.

Regarding claim 28, note Fig. 1, elements 38 and 44 of applicant's admitted prior art.

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Regarding claims 29 and 30, note Fig. 1, elements 38, 40, 42 and 44 of applicant's admitted prior art.

Allowable Subject Matter

4. Claims 3, 4, 6, 10, 11, 13, 19, 20, 22, 31, 37 and 43 have been cancelled.
5. Claims 1, 2, 5, 8, 9, 12, 15-18, 21, 23, 24, 25, and 32-36 are allowed.
6. Claims 7, 14, and 38-42 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Response to Arguments

7. Applicant's arguments, see page 19, filed 02/22/2005, with respect to Objections to the Specification have been fully considered and are persuasive. The objections to the specification have been withdrawn.
8. Applicant's arguments, see page 20, filed 02/22/2005, with respect to Rejections under 35 U.S.C. 112, second paragraph have been fully considered and are persuasive as regards the rejections to claims 16 and 23. The rejection of claims 16

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and 23 under 35 U.S.C. 112, second paragraph, has been withdrawn. Applicant indicated on page 20 that claims 7, 14 and 38 "have been amended to provide proper antecedent basis for certain elements and to correct other discrepancies", however, no amendment regarding said discrepancies was made to these claims. Therefore, the rejections to claims 7, 14 and 38-42, under 35 U.S.C. 112, second paragraph, remain, (see above).

9. Applicant's arguments, see page 20 and 21, filed 02/22/2005, with respect to Rejections under 35 U.S.C. 102 and 35 U.S.C. 103, regarding claims 1, 2, 5, 7, 8, 9, 12, 14, 18, 21, 23, 32-36 and 38-42 have been fully considered and are persuasive. The rejections under 35 U.S.C. 102 and 35 U.S.C. 103 of claims 1, 2, 5, 7, 8, 9, 12, 14, 18, 21, 23, 32-36 and 38-42 have been withdrawn.

10. Applicant's arguments regarding claims 26-30, (see pages 20 and 21), filed 02/22/2005, have been fully considered but they are not persuasive.

Regarding claim 26, applicant states that "claim 26 has been amended to include the limitations of claim 31 therefore claim 26 is believed allowable." Examiner respectfully disagrees. Claim 31 was previously indicated as rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art, and further in view of Liese et al. Regarding said rejection, applicant states, on page 21, that

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“applicants respectfully traverse each of these rejections and request reconsideration.” Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Therefore, including the limitations of claim 31 in claim 26 does not overcome the rejections made to those claims in the prior office action, and the rejection under 35 U.S.C. 103(a) of claims 26-30 stands.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron D Matthew whose telephone number is (571) 272-3662. The examiner can normally be reached on Mon-Fri, from 8:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aaron D Matthew
Examiner
Art Unit 2114

ADM

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